IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE

WRIT PETITION NO.7127 OF 2004

Sambhaji Pandurang Kharade & Ors. : Petitioners

V/s.

Ramdas Shripati Takawale & Ors. : Respondents

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Mrs.Indrayani M. Koparkar for the petitioners.

Mr.C.S.Joshi for the respondent nos.1 to 7.

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CORAM : S.A. BOBDE, J.

August 23, 2005.

P.C.:

1. The petitioners have challenged the order dated 25.2.2004 of the Sub-Divisional Officer, Baramati Division, Baramati, in a revision application under section 23(2)(C) of the Mamlatdar Courts Act, 1906. By the impugned order, the learned Sub-Divisional Officer upheld the order of the Tahsildar holding that the petitioners are obstructing the respondents in using a path-way existing on the land bearing gat no.311.

2. The learned counsel for the petitioners submitted that the findings are vitiated on account of the fact that the

petitioners' signatures were not obtained on the panchanama of the spot inspection. It is obvious from the record that notice was given to the petitioners at the time of spot inspection, but they did not remain present. They were given an opportunity of having their statement recorded in spite of which they remained absent.

3. As a matter of fact, the Tahsildar and the Sub-Divisional Officer have come to the conclusion that gat no.311 is a 'bagayat' land and it has a well and a road along the bandh. The road has been blocked by the petitioners and the Courts below have directed removal of the obstruction. Whether it is essentially a path-way or not is a pure question of fact, which has been found in favour of the respondents. It has also been found that the petitioners are not entitled to block that path-way. There is no error of law, jurisdictional or otherwise which warrants interference.

4. The petition is dismissed.

Sd/-

S.A. BOBDE, J.